IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 298 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AHMEDABAD MUNICIPAL CORPORATION

Versus

SUDHAKAR SHETTI

Appearance:

1. Appeal from Order No. 298 of 2000

MR PRASHANT G DESAI for Appellant No.

MR LR PUJARI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 18/10/2004

ORAL JUDGEMENT

By filing this Appeal from Order, the appellant-Corporation has challenged the order dated 15-12-1994, passed by the learned Principal Judge, City

Civil Court, Ahmedabad, below Exh.5 in Civil Suit No.930/1999. By the said order, the trial Judge has granted injunction in favour of the plaintiff-the respondent herein by observing that whether the construction made by the plaintiff in the form of weather shed is permissible without any prior permission of the Corporation is a question which is required to be decided in the suit. In the suit, the trial Court has granted injunction in favour of the respondent by which the Corporation is restrained from implementing the notice issued under Section 260 (1) of the Corporation Act.

2) At the time of admitting this Appeal from Order on 06/04/2004, this Court (Coram:K.A.Puj, J.) has passed the following order:

"RULE returnable on 19.04.2004."

3) During the course of hearing, it is pointed out to this Court by the learned advocates of both the sides that subsequently the plaintiff has paid the impact fee for regularisation of the alleged construction and it seems that some settlement has taken place during the Lok Darbar organized by the Corporation.

4) Mr.Pujari for the respondent-original plaintiff has also submitted that the plaintiff has already paid the impact fee and all necessary documents are given to the Corporation and the plaintiff is awaiting final decision at the hands of the Corporation for regularisation of the construction.

5) Considering the aforesaid aspect of the matter, in my view, this Appeal from Order has become infructuous and nothing further is required to be done in this matter, as the plaintiff himself has paid the impact fee for regularisation of the construction. If such construction is regularised by the Corporation, even the suit will become infructuous.

6) Mr.Pujari has fairly stated that if the construction is regularised, his client will withdraw the suit in question.

7) Considering the aforesaid aspect of the matter, this Appeal from Order is disposed of as having become infructuous. No costs.

(P.B.Majmudar,J.)

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